



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN THE MATTER OF:)
)
JACK LAWRENCE, JR.,)
)
Respondent.)
)
Serve at:)
878 Castle Pines Drive)
Ballwin, MO 63021)

ORDER OF REFUSAL TO RENEW INSURANCE PRODUCER LICENSE

On November 9, 2010, Andy Heitmann, Enforcement Counsel and Counsel to the Division of Consumer Affairs, submitted a Petition to the Director alleging cause for refusing to issue an insurance producer license to Jack Lawrence, Jr. After reviewing the Petition, the Investigative Report, and the entirety of the file, the Director issues the following findings of fact, conclusions of law and summary order:

FINDINGS OF FACT

1. Jack Lawrence, Jr. ("Lawrence") is a Missouri resident with an address of 878 Castle Pines Drive, Ballwin, Missouri, 63021.
2. Lawrence has held a Missouri insurance producer license (License Number 0139441) since November 11, 1990; that license is set to expire on November 9, 2010.
3. On November 3, 2010, the Department of Insurance, Financial Institutions & Professional Registration ("Department") received Lawrence's electronically submitted Uniform Application for Resident Individual Insurance Producer License ("Application").
4. On November 16, 2007, the Department received a notification from American

Family Insurance Group ("American Family"), stating that American Family had terminated Lawrence and alleging that, while appointed with American Family, Lawrence had collected premium payments from insurance clients but had not forwarded the premium to American Family.

5. The Department's Division of Consumer Affairs (the "Division") commenced an investigation into the circumstances underlying the notification from American Family.

6. As part of its investigation, the Division issued a subpoena duces tecum to Lawrence on May 23, 2008. On June 17, 2008, Lawrence appeared at the Department's offices and testified under oath (the "Subpoena Conference").

7. The investigation revealed the facts found in this Order.

8. Lawrence's appointment with American Family was terminated on August 31, 2006.

9. On or about September 7, 2006, Benson Settlement Company submitted to Lawrence a premium for homeowners insurance, in the amount of \$1,054 (the "Benson Settlement Company check"), to be applied to an American Family policy on behalf of Celia and Allen Watkins, who were insurance clients of Lawrence.

10. Lawrence deposited the Benson Settlement Company check in his business account on or about September 11, 2006, but he never submitted the funds to American Family.

11. Lawrence deposited the Benson Settlement Company check eleven days after his appointment with American Family had been terminated, and therefore after American Family could have swept his account for premium funds.

12. At the Subpoena Conference, Lawrence admitted that he deposited the Benson Settlement Company check and that he did not know how he could have forwarded the premium to American Family.

13. At the Subpoena Conference, Lawrence also admitted that one day after he deposited the \$ 1,054 check in his business account, that account contained only \$ 989.36.

14. Lawrence has provided no evidence that he entered into any written agreement that allowed for premium to be remitted later than 30 days from the date he received the premium payments.

CONCLUSIONS OF LAW

15. Section 375.141, RSMo (Supp. 2009), provides, in part:

1. The director may suspend, revoke, refuse to issue or refuse to renew an insurance producer license for any one or more of the following causes:

* * *

(2) Violating any insurance laws, or violating any regulation, subpoena or order of the director or of another insurance commissioner in any other state

* * *

(4) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;

* * *

(8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

16. 20 CSR 700-1.140¹ states, in part:

(2) Document and Premium Handling Standards. When dealing with any personal insurance policy, every insurance producer shall comply with the following standards

¹ The relevant portion of the version of the regulation in effect in September and October 2006 is quoted in this paragraph. It differs from the current version only in its numbering of the quoted subparagraph. A copy of the regulation in its entirety is attached to this Order for reference.

of promptness regarding securing and amending coverage, providing written evidence of insurance transactions and handling premiums, except to the extent these actions are the responsibility of the insurer. Where it is the insurer's responsibility to take these actions, this responsibility shall be delineated in a written document, a copy of which shall be retained by the licensee and available for examination by the department.

* * *

(D) Insurance producers shall remit all premium payments associated with a personal insurance policy to those persons entitled to them as soon as is reasonably possible after their receipt by the licensee, but in no event later than thirty (30) days after the date of receipt, provided, however, that premiums may be remitted at a later point in time if the licensee is so authorized under a written agreement between the licensee and the person legally entitled to the premiums. In no event, however, shall a licensee retain premium payments if to do so will result in the failure to obtain or continue coverage on behalf of an insured or prospective insured.

17. Disciplinary statutes must be construed broadly to further their remedial purpose.

Dir. of Insurance v. Walker Services, 05-1716 DI (Mo. Admin. Hearing Comm'n December 20, 2006) (citing *State ex rel. Webster v. Myers*, 779 S.W.2d 286, 290 (Mo. App. 1989)).

18. The principal purpose of § 375.141, RSMo, is not to punish licensees or applicants, but to protect the public. *Ballew v. Ainsworth*, 670 S.W.2d 94, 100 (Mo.App. E.D. 1984).

**Lawrence Improperly Withheld, Misappropriated and Converted Monies and Properties
Received in the Course of Doing Insurance Business**

19. By depositing the Benson Settlement Company check, which was intended for American Family, even after his termination by American Family, Lawrence improperly withheld, misappropriated or converted the funds from the Benson Settlement check, which is a ground for the Director's refusal to renew Lawrence's insurance producer license under § 375.141.1(4), RSMo (Supp. 2009).

20. By failing to remit the Benson Settlement Company check to American Family

after depositing it, Lawrence improperly withheld, misappropriated or converted the funds from the Benson Settlement check, which is a ground for the Director's refusal to renew Lawrence's insurance producer license under § 375.141.1(4), RSMo (Supp. 2009).

21. Because the balance of the account in which Lawrence deposited the Benson Settlement Company check fell below the amount of the premium to be remitted before the premium could be remitted to American Family, Lawrence improperly withheld, misappropriated or converted the funds from the Benson Settlement check, which is a ground for the Director's refusal to renew Lawrence's insurance producer license under § 375.141.1(4), RSMo (Supp. 2009).

Lawrence Violated an Insurance Regulation by Failing to Remit a Premium Payment Within 30 Days

22. Lawrence's failure ever to remit the Benson Settlement Company check violated 20 CSR 700-1.140, which required that Lawrence remit the premium funds from the Benson Settlement Company Check within 30 days to American Family.

23. Lawrence's violation of 20 CSR 700-1.140 was a violation of an insurance regulation and, as such, provides the Director with cause to refuse to renew Lawrence's insurance producer license under § 375.141.1(2), RSMo (Supp. 2009).

Lawrence Used Dishonest Practices and Demonstrated Incompetence and Untrustworthiness in the Conduct of Business in Missouri

24. Lawrence's failure to remit the Benson Settlement Company premium check demonstrates incompetence and untrustworthiness in the conduct of business in this state:

- a. Lawrence's improper withholding, misappropriation or conversion of a premium check demonstrates lack of professional ability, or a lack of disposition to use an otherwise sufficient professional ability, to perform

the occupation of an insurance producer. Properly receiving premium and ensuring that it reaches the insurer so that the client receives the coverage bargained for is a basic function of the occupation of an insurance producer. A failure in this function can be catastrophic to an insurance client.

- b. Lawrence's improper withholding, misappropriation or conversion of premium checks demonstrate that Lawrence is not worthy of confidence or dependable. Lawrence was entrusted with a premium check with the confidence that he could simply remit it to the proper insurer. Lawrence demonstrated that this confidence was misplaced, and that he could not be depended on to handle premium funds, by depositing the check even though he had been terminated, by almost immediately drawing down his bank account below the amount of the premium to be remitted, and then by failing to send the funds by some other method to the insurer. Celia and Allen Watkins were left to bear any consequences of Lawrence's failures.
- c. All of the above-described acts or failures to act took place as part of Lawrence's conduct of business as an insurance producer in Missouri.

25. As a result, Petitioner has cause to refuse to renew Lawrence's insurance producer license under § 375.141.1(8), RSMo (Supp. 2009).

26. The Director has considered Lawrence's history and all of the circumstances surrounding Lawrence's Application. Lawrence's inappropriate withholding, misappropriation or conversion of premium funds demonstrates incompetence and untrustworthiness that make

renewal of his Missouri insurance producer license not in the interest of the public. For all of these reasons, the Director exercises his discretion in refusing to renew Lawrence's insurance producer license.

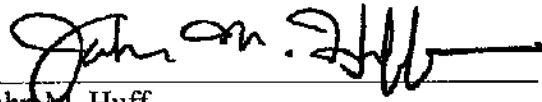
27. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the renewal of the insurance producer license of Jack Lawrence, Jr. is hereby summarily REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 9th DAY OF November, 2010.



John M. Huff
DIRECTOR



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

NOTICE


TO: Applicant and any unnamed persons aggrieved by this Order:

You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri within (30) days after the mailing of this notice pursuant to Section 621.120, RSMo.

AMENDED CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of November 2010, a copy of the foregoing notice and order was served upon the Applicant in this matter by certified mail and priority mail at:

Jack Lawrence, Jr.
878 Castle Pines Drive
Ballwin, MO 63021


Kathryn Randolph
Paralegal